


AGENDA ITEM #5
May 6, 2008

Introduction

MEMORANDUM

May 2, 2008

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: Introduction – Zoning Text Amendment 08-11,
Standards – Residential Zones

Zoning Text Amendment (ZTA) 08-11, sponsored by Councilmember Berliner, is scheduled to be introduced on May 6, 2008. A public hearing will be held on June 17 at 1:30 p.m. if the Council approves the attached resolution. ZTA 08-11 would amend the Zoning Ordinance to:

- lower the maximum height for certain lots in the R-200 zone;
- reduce the maximum building coverage for certain lots in certain one-family residential zones;
- amend provisions concerning an established building line by specifying the buildings to be included, the buildings to be excluded, and an alternative method to determine the setback required; and
- require regulations to implement the provisions for any sloping lot.

A lot smaller than 40,000 square feet in the R-200 zone would be subject to a lower *building height limit* zone under ZTA 08-11 if the lot was recorded before 1996 or in a subdivision that created 5 or fewer lots recorded after 1995. Maximum building height limits would be related to the size of the lot.

A lot in the R-200, R-150, R-90, R-60, and R-40 zones would be subject to a reduced *maximum building coverage* standard under ZTA 08-11 if the lot was recorded before 1996 or in a subdivision that created 5 or fewer lots recorded after 1995. The maximum building coverage would be related to the size of the lot.

Any lot created by a subdivision of six or more lots recorded after 1995 and any lot with a building permit application filed before the date of the ZTA's adoption would not be affected by ZTA 08-11. Under ZTA 08-11, if an existing home exceeds the new standards and is

demolished in the future, the owner may rebuild a building of the same height and building coverage as the demolished building.

Currently, the Zoning Ordinance requires a new house in an existing neighborhood to conform to the established building line even if the established building line is farther from the street than the setback required by the zone. ZTA 08-11 would amend the established building line provisions of the Ordinance to clarify the lots to be excluded from calculating the line and to allow the setback line to be established by the houses on abutting properties.

On any sloping lot, stories in addition to the number permitted in the zone are permitted on the downhill side of any building erected on the lot. This provision of the Ordinance does not define 2 critical terms: 1) the degree of slope necessary to invoke this provision of the Ordinance; and 2) which side of a lot is the downhill side. ZTA 08-11 would require the Department of Permitting Services to adopt regulations to implement this provision of the Ordinance.

Ordinance No:
Zoning Text Amendment No: 08-11
Concerning: Standards – Residential Zones
Draft No. & Date: 1 – 5/30/08
Introduced: May 6, 2008
Public Hearing: June 17, 2008
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Berliner

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the provisions concerning an established building line;
- require regulations to implement the provision concerning a sloping lot;
- amend the maximum height for certain lots in the R-200 zone;
- amend the maximum building coverage for certain lots in certain one-family residential zones; and
- generally amend the development standards for one-family residential zones.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-5	“COMPLIANCE REQUIRED”
Section 59-A-5.33	“Established building line”
Section 59-A-5.41	“Additional stories on sloping lots”
DIVISION 59-C-1	“RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.32	“Development standards”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-A-5 is amended as follows:

Division 59-A-5. Compliance Required.

* * *

59-A-5.33. Established building line.

- (a) The established building line, as defined in Section 59-A-2.1, applies only to new buildings in the R-60, R-90, R-150 and R-200 zones. The established building line does not apply to an alteration or addition to an existing building.
- (b) The two or more main buildings considered in determining the established building line must all be:
- (1) [all be] within 300 feet of the side property line of the proposed construction site [(excluding corner lots)] measured along the street frontage;
 - (2) [all be] along the same side of the street;
 - (3) [all be] between intersecting streets or to the point where public thoroughfare is denied;
 - (4) [all] in existence [exist at the time] when the building permit application is filed;
 - (5) [not be nonconforming, unlawfully] legally constructed [, or constructed pursuant to a lawfully granted variance]; and
 - (6) [not be located on a pipestem or flag-shaped lot.] not on a through lot if the building on the through lot fronts on a street other than the street fronting the subject property.
- (c) The established building line is the minimum setback for the zone, unless there are at least two buildings as described in subsection (b) and more than 50 percent of the buildings described in subsection (b) are set back greater than the minimum, in which case the average

setback of all the buildings described in subsection (b) excluding those buildings;

(1) in the R-200 zone that are served by well or septic[,];

(2) on the subject property;

(3) in a different zone than the subject property;

(4) on a through lot that fronts on a street different than the subject property,

(5) located on any pipestem, wedge-shaped, or flag-shaped lot; or

(6) approved by permit for demolition.

is the established building line unless the applicant chooses to calculate the setback as the average setback of the two adjoining lots. All calculations must be based on a survey that is signed and sealed by a licensed engineer or surveyor. The engineer or surveyor who signed the survey must also file an affidavit attesting to the accuracy of the survey. Any building excluded from the established building line restriction must comply with the minimum setback requirement of the zone.

(d) Corner lots have two front yards and are subject to established building line standards on both streets.

* * *

59-A-5.41. Additional stories on sloping lot.

On any sloping lot, stories in addition to the number permitted in the zone in which [such] the lot is [situated shall] located must be permitted on the downhill side of any building erected on [such] the lot, but the building height limit [shall] must not otherwise be increased above that specified for the zone. The Department must implement this section under a regulation adopted under method 2.

* * *

Sec. 2. DIVISION 59-C-1 is amended as follows:

DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.

* * *

59-C-1.32. Development standards.

* * *

	RE-2	RE-2C	RE-1	R-200	R-150 ³	R-90	R-60	R-40 ²	R-4 plex	RMH 200
59-C-1.327. Maximum Building Height (in Feet).										
Except for agricultural buildings, and except as provided in Division 59-B-1, the maximum height of any building or structure [shall] <u>must</u> be [as follows]:										
For any building in these zones:	50	50	50	50 [*]	50			35		50
For a main building in these zones:									35	
For a main building in the zones indicated (*):						*	*			

	RE-2	RE-2C	RE-1	R-200	R-150 ³	R-90	R-60	R-40 ²	R-4 plex	RMH 200
The height must not exceed: (1) 35 feet when measured to the highest point of roof surface regardless of roof type, or (2) 30 feet to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof, subject to the following:										
(a) The height must not exceed 2 ½ stories ⁵ or 30 or 35 feet, depending on the method of measurement, if other lots on the same side of the street and in the same block are occupied by buildings with a building height the same or less [that] <u>than</u> this requirement.										
(b) The height may be increased to either 3 stories or 40 feet if approved by the [planning board] <u>Planning Board</u> [through the] <u>in a</u> site plan [approval procedures of division 59-D-3].						*	*	*		
An accessory building in these zones must not exceed:									20 ⁹	

[illegible]

* If the lot: (1) was created by a plat recorded before January 1, 1996, or by a plat of 5 or fewer lots recorded after January 1, 1996; (2) is less than 40,000 square feet in area; and (3) is the site of a building permit application filed after {date ZTA enacted}, then the maximum allowable building height is determined by either of two methods and varies with the lot area as follows:

Lot Area in Square Feet

Height in Feet

<u>Equal to or greater than</u>	<u>And less than</u>	<u>Height to the highest point of any roof</u>		<u>The mean height in feet between the eaves and ridge of a gable, hip, mansard, or gambrel roof</u>
<u>25,000</u>	<u>40,000</u>	<u>45</u>	<u>or</u>	<u>40</u>
<u>15,000</u>	<u>25,000</u>	<u>40</u>	<u>or</u>	<u>35</u>
<u>0</u>	<u>15,000</u>	<u>35</u>	<u>or</u>	<u>30</u>

Any building constructed under a building permit application filed before {date ZTA enacted} is not non-conforming, but the building height must not be increased if it exceeds these standards.

** If the lot was created by a plat recorded before January 1, 1996, or by a plat of 5 or fewer lots recorded after January 1, 1996, then the maximum percentage of lot area that may be covered by buildings, including accessory buildings, varies with the lot area as follows:

Lot area less than 6,000 square feet: 30 percent.

Lot area equal to or greater than 6,000 square feet but less than 15,000 square feet: 30 percent, less one percent for every 1,000 square feet of lot area exceeding 6,000 square feet.

Lot area equal to or greater than 15,000 square feet: 20 percent.

Any building constructed under a building permit application filed before {date ZTA enacted} is not non-conforming, but it must not increase the lot area covered if it exceeds the applicable limit.

* * *

Sec. 3. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Resolution No:
Introduced: May 6, 2008
Adopted: May 6, 2008

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: Councilmember Berliner

Subject: Notice of Public Hearing on Zoning Text Amendment 08-11

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within 30 days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 08-11, introduced on May 6, 2008, would amend the Zoning Ordinance to:
 - amend the provisions concerning an established building line;
 - require Council approved regulations to implement the provision for the number of stories allowed on a sloping lot;
 - amend the maximum height for certain lots in the R-200 zone; and
 - amend the maximum building coverage for certain lots in certain one-family residential zones.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

Legal notice will be given of the public hearing to be held on June 17, 2008 at 1:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council